



ROBAINA & KRESIN PLLC
EMPLOYMENT ATTORNEYS

5343 N. 16th Street, Suite 200
Phoenix, Arizona 85016-3231
Fax: 602-682-6455
www.robainalaw.com

Thomas Griffin
Tel: 602-682-6450
ttg@robainalaw.com

August 29, 2019

Via Personal Service and U.S. Mail

William Buividas, Chairman
Mike Scheidt, Vice Chairman
Harry A. Papp, Trustee
Dean M. Scheinert, Trustee
Donald A. Smith, Jr., Trustee
Jim Ameduri, Trustee
Scott McCarty, Trustee
Brian Moore, Trustee
Christopher J. Hemmen, Trustee
Public Safety Personnel Retirement System
Board of Trustees
3010 East Camelback Road, Suite 200
Phoenix, Arizona 85016

Bret Parke
Acting Administrator/General Counsel
Public Safety Personnel Retirement System
3010 East Camelback Road, Suite 200
Phoenix, Arizona 85016

Jared Smout
Former Public Safety Personnel Retirement System Administrator
16325 East Crystal Point
Fountain Hills, Arizona 85268

Jim Hacking
Former Public Safety Personnel Retirement System Administrator
4343 North 21st Street, No. 206
Phoenix, Arizona 85016

///

Notice of Claim to
Public Safety Personnel Retirement System
and Jared Smout
August 29, 2019
Page 2 of 5

Mark Brnovich
Arizona Attorney General
Counsel for the Board (pursuant to A.R.S. § 38-848(R))
2005 East Central Avenue
Phoenix, Arizona 85004

Re: Notice of Claim regarding Shannon Hatch pursuant to A.R.S. § 12-821.01

Dear Sirs:

This firm represents Shannon Hatch in connection with her employment with the Public Safety Personnel Retirement System ("PSPRS"). Pursuant to A.R.S. § 12-821.01, I am writing to provide you with notice of Ms. Hatch's claims against PSPRS, Jared Smout and Jim Hacking. As required by A.R.S. § 12-821.01, this notice contains the factual basis supporting liability, a specific sum in exchange for which Ms. Hatch is willing to fully settle and resolve her claims, and the facts supporting that amount. If you believe additional information is required to comply with the law, or if you have any questions, please let me know.

In 2008, Ms. Hatch began her employment with PSPRS and Ms. Hatch remains employed by PSPRS to this date. From 2014 until the last date he performed services for PSPRS, April 15, 2019, Mr. Smout invaded Ms. Hatch's privacy in ways that are highly offensive to a reasonable person and caused Ms. Hatch to suffer severe emotional distress. Mr. Smout's invasion of Ms. Hatch's privacy went hand-in-hand with his continuous sexual harassment of Ms. Hatch during the same time period. Mr. Smout's sexual harassment included: leaving typed and handwritten notes on Ms. Hatch's desk of a personal and inappropriate nature; looking at Ms. Hatch inappropriately in an up/down manner; making unwanted comments about Ms. Hatch's appearance; trying to intentionally brush his hand or arm on Ms. Hatch when handing her something or passing by; sending inappropriate instant messages; making inappropriate comments about what Ms. Hatch was wearing; telling Ms. Hatch that it was meant to be for him to return to his employment with PSPRS because of her; comparing Ms. Hatch to a butterfly; telling Ms. Hatch she was beautiful; and telling Ms. Hatch he has dreams about her. Mr. Smout's sexual harassment was so clear that his assistant told Ms. Hatch, "you know he loves you, right?" Many other coworkers also noted Mr. Smout's actions towards Ms. Hatch and made snide comments. One comment occurred when an employee had to tell Mr. Smout to stop coming around the workstations to see Ms. Hatch because it was interrupting her

department from working. Another employee also repeatedly made references that Ms. Hatch was Mr. Smout's favorite and that she was special to him. Yet another employee also told Ms. Hatch that because of the way Mr. Smout acted towards her, including always sitting right by Ms. Hatch in meetings, she thought they had an intimate relationship. Another employee recently asked Ms. Hatch if she was "fucking" Mr. Smout in the bathroom. Ms. Hatch was so put off by Mr. Smout's sexual harassment that she refused to be alone in the building with him and when working numerous hours on an overtime project, she would come in on Sundays because she knew that he would not be there.

Ms. Hatch was given multiple opportunities to promote to become Mr. Smout's assistant, which would have included a significant raise, increased supplemental benefits and would have increased Ms. Hatch's Arizona State Retirement System ("ASRS") benefits for life. But, Ms. Hatch could not accept that position because there was already concern among coworkers that she was too close to Mr. Smout—through no desire of her own—and because it would have exacerbated the troubles at home with her spouse that Mr. Smout's actions had already caused.

For some time, Ms. Hatch wondered if Mr. Smout was watching her on video because, among other things, Mr. Smout would make statements to Ms. Hatch that he would not have known unless he was watching her. But Ms. Hatch did not realize that Mr. Smout was in fact watching her until July 25, 2019 when an Information Technology Department employee told Ms. Hatch that Mr. Smout was viewing her on video. During a recent investigation, Mr. Smout admitted that he used PSPRS's in-house surveillance to secretly watch an employee that he was attracted to. Ms. Hatch has reason to believe that she was that employee. The investigation¹ showed that Mr. Smout used PSPRS's video equipment at least 378 times over a month to watch the employee in question, believed to be Ms. Hatch and that Mr. Smout indicated that he "spent a great deal of time 'viewing live video sometimes for hours every day.'" The investigation also showed that Mr. Smout was aware of staff concerns that he was spying on them and that then PSPRS Administrator Mr. Hacking knew that Mr. Smout was using PSPRS's video equipment to secretly watch an employee or multiple employees, but Mr. Hacking failed to inform the employee(s) in question, failed to discipline Mr. Smout, and instead gave Mr. Smout a raise and eventually promoted him. Upon information and belief, PSPRS's Human Resources representatives were also aware that Mr. Smout was using PSPRS's

¹ A redacted copy of the July 15, 2019 Report is attached as Exhibit 1 and the entire investigation, which has not been made available to Ms. Hatch, is incorporated by reference.

Notice of Claim to
Public Safety Personnel Retirement System
and Jared Smout
August 29, 2019
Page 4 of 5

video equipment to secretly watch an employee or multiple employees, but they failed to inform the employee(s) in question or take any other action.

During the investigation, Mr. Smout also admitted to sexually harassing employees, and Ms. Hatch has reason to believe that she is one of the employees Mr. Smout admitted to sexually harassing. Mr. Smout's response to the harassment was to say that he "was a man." Further, the Board knew or should have known of Mr. Smout's actions, but it failed to take any action or do any due diligence before promoting him to Interim Administrator and then Administrator. Ms. Hatch did not realize Mr. Hacking/PSPRS's knowledge and failure to act until news articles came out in July 2019.

Mr. Smout's actions were intentional, reckless, extreme and outrageous and they were not for any legitimate business purpose. Mr. Smout abused his position of authority in taking these actions and they occurred in a workplace setting where Ms. Hatch had a reasonable expectation of privacy and an expectation to be free from secret surveillance. Mr. Hacking and PSPRS's failure to take any action or advise the employee(s) in question—despite its knowledge of Mr. Smout's actions—was also intentional, reckless, extreme and outrageous. As would happen with any reasonable person in Ms. Hatch's position, upon realizing Mr. Smout's actions and PSPRS's failure to take action, Ms. Hatch has been seriously upset, embarrassed, and she has suffered severe emotional distress. Specifically, Mr. Smout's actions caused doubt with Ms. Hatch's husband and Ms. Hatch continuing to work for PSPRS. Ms. Hatch's husband wanted to go to the office and confront Mr. Smout, but Ms. Hatch would not allow that because she was embarrassed. While Ms. Hatch's husband did not confront Mr. Smout, Mr. Smout's continuing actions created contention in their home life. Because of Mr. Smout's actions, for years Ms. Hatch had to account for and disclose where she was, when she was coming home, and it made her husband doubt her honesty. Ms. Hatch also had to hide some of Mr. Smout's actions from her husband because it would have upset her husband even more. Ms. Hatch has been physically ill, lost sleep many nights with constant thoughts through this process trying to think how best to handle situations at work and home. Ms. Hatch downplayed Mr. Smout's behavior and actions the entire time strictly out of fear of losing her job and creating hardships at home. Mr. Smout has taken away a part of Ms. Hatch's happiness and changed her working relationships and her marital relationship. Ms. Hatch has had to endure the scrutiny, doubt, mistrust, and take the verbal abuse of others for years and the emotional toll it has caused has wreaked havoc in her life.

In addition to Ms. Hatch's civil rights claims, which are not subject to the requirements of this Notice of Claim, Ms. Hatch has multiple state law causes of action

Notice of Claim to
Public Safety Personnel Retirement System
and Jared Smout
August 29, 2019
Page 5 of 5

against PSPRS, Mr. Smout and Mr. Hacking who acted both within and outside the course and scope of their employment with PSPRS. Those claims include intentional infliction of emotional distress, and invasion of privacy/intrusion upon seclusion. In addition to the emotional harm and suffering, lost compensation and benefits, including diminished ASRS retirement benefits for life, Ms. Hatch may recover punitive damages based on PSPRS's failure to take action despite knowledge of Mr. Smout's actions.

Based on the foregoing facts and in a good faith attempt to settle her claims without the necessity of litigation, Ms. Hatch will settle this matter for the lump sum of \$3,000,000. This settlement offer will remain open for sixty days from the date it was served. If I do not hear from you within that time frame, I will assume you are not interested in amicably resolving this matter and will move forward with pursuing Ms. Hatch's legal rights.

Should you have any questions or need additional information in order to clarify any details identified in this letter, please feel free to contact me.

Sincerely,

Thomas Griffin

Thomas Griffin

TTG/gc
Enclosure
cc: Shannon Hatch

EXHIBIT 1

Douglas A. Ducey
Governor



Andy Tobin
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

100 NORTH FIFTEENTH AVENUE • SUITE 403
PHOENIX, ARIZONA 85007

(602) 542-1500

July 15, 2019

Mr. William T. Buividas
Chairman, Board of Trustees
Public Safety Personnel Retirement System (PSPRS)
3010 E. Camelback Road, Suite 200
Phoenix, AZ 85016

Dear Mr. Buividas:

The information contained in this letter is being provided to you in your official capacity as Chairman of the PSPRS Board. As you review the information below, please be reminded that State Rules and policy prohibit retaliation in any form against anyone for raising a concern about, assisting in an investigation of, or filing a complaint in good faith.

As you may recall, the Arizona Department of Administration (ADOA) previously notified you in March that we had received an email from [REDACTED] that contained serious allegations regarding PSPRS ([REDACTED] email). Due to the seriousness and sensitivity of the allegations, ADOA determined that outside counsel would be conducting the investigation. During the investigation, PSPRS Administrator Jared Smout was placed on administrative leave and remains in that status. The investigation is now complete, and the findings are provided in this letter.

Scope and Background

The [REDACTED] email contained several allegations, some of which had already been addressed by PSPRS. Thus, this investigation focused primarily on the allegation that Mr. Smout was in an [REDACTED]. Shortly after the investigation was initiated, on April 2, 2019, ADOA received anonymously a second email. The anonymous second email alleged additional improper behavior by Mr. Smout towards [REDACTED], and specifically mentioned an [REDACTED], outlining a specific interaction between Mr. Smout and [REDACTED].

The investigators reviewed all information supplied by the authors of the two emails and by PSPRS. In-person or telephonic interviews were conducted with eight current or former PSPRS staff, which included interviews with the author of the [REDACTED] email, as well as Mr. Smout. The investigators also interviewed a Sergeant with the Phoenix Police Department because there was reason to believe the Sergeant may have information relevant to the subject matter of the investigation.

Allegations and Findings

- Allegation of [REDACTED] - The [REDACTED] email alleges that Mr. Smout has an [REDACTED] with [REDACTED]. During [REDACTED] interview, [REDACTED] alleged [REDACTED] has been subjected to inappropriate behavior by Mr. Smout for about a year, which included him looking at [REDACTED] inappropriately, making inappropriate comments about [REDACTED] body, engaging in inappropriate physical contact and leaving [REDACTED] in and on desk. Mr. Smout admitted to and confirmed the following:
 - He is attracted to [REDACTED] and that, in light of his attraction, [REDACTED] should not be [REDACTED].
 - He has sent inappropriate text messages to [REDACTED], and often included emojis [REDACTED] those texts, and acknowledged sending such emojis to [REDACTED] was inappropriate.
 - He has often hugged [REDACTED] and that he may have run his hands up and down [REDACTED] back when they hugged, which he acknowledged may have amplified the improper nature of his conduct.
 - He has given [REDACTED], acknowledged that the [REDACTED] that he gave [REDACTED] were accompanied by [REDACTED] and that it was inappropriate for him to tell [REDACTED] that he [REDACTED].
 - He has given [REDACTED]
 - He has secretly placed [REDACTED] coin purse on at least five occasions, which he stated were for "lunches", and gave [REDACTED].
- [REDACTED] Incident Described in April 2, 2019 Anonymous Email - The author of the anonymous email alleged s/he had [REDACTED] Mr. Smout and [REDACTED]
[REDACTED]
[REDACTED] Mr. Smout admitted to and confirmed the following:
 - The complaint and its description were accurate.
 - He had told [REDACTED] during the exchange and that he was looking at [REDACTED] body and was trying to apologize to [REDACTED] for doing so.
 - He had looked over or stared at [REDACTED] body in an inappropriate manner on multiple other occasions, and attempted to explain his behavior by remarking that he "was a man".
 - [REDACTED] has reacted to his behavior by crossing [REDACTED] arms across [REDACTED] chest.
 - His conduct in this regard was not appropriate, especially because he was the Administrator and [REDACTED]
- Allegations Regarding Electronic Spying or Hacking - The [REDACTED] email alleges that Mr. Smout has asked Information Technology (IT) staff to spy on employees he doesn't like. During employee interviews, [REDACTED] as well as at least one other [REDACTED] staff member expressed concerns that PSPRS IT employees may be spying on them. Mr. Smout admitted to and confirmed the following:
 - In about November 2018, he had a meeting with two [REDACTED] PSPRS employees and PSPRS Human Resources, during which both [REDACTED] employees reported that they believed they were being spied upon by employees in PSPRS's IT office; during the

- meeting, he stated he would contact the forensic investigator whose business card he had received from one of the employees in the meeting.
- In about January 2019, he brought in Phoenix Police Detective Sgt. Daren Wunderle, who met with [REDACTED] and Mr. Smout to discuss concerns about possible spying by PSPRS IT staff.
 - He never actually retained a forensic investigator and acknowledged that Sgt. Wunderle was critical of Mr. Smout during their meeting for not acting promptly to investigate the employees' allegations regarding being spied upon.
 - He considered the employees' allegations of being spied upon to be credible and suspected that IT staff may have spied in some manner on PSPRS employees.
 - If the employees' allegations were correct, PSPRS computer systems, databases and network might be compromised.
 - Agreed it was his responsibility as the Administrator to ensure the safety and security of PSPRS's operations and employees.
 - Despite all concerns, he did not retain a computer forensic expert to conduct an investigation in a timely manner, file a police report, contact the FBI, or even inform the PSPRS Board that two [REDACTED] employees believed that they were being spied upon by IT.
- Mr. Smout's Video Viewing Habits - During the course of the investigation, the investigators were made aware of a thumb drive related to a prior investigation of Mr. Smout; the thumb drive contained a letter from 2014 regarding Mr. Smout's PSPRS video surveillance viewing habits, in particular, between May 19 and June 23, 2014; the summary and spreadsheet indicated that Mr. Smout spent a great deal of time "viewing live video sometimes for hours every day" of [REDACTED] PSPRS employees, of which [REDACTED] was the primary focus. Mr. Smout admitted to and confirmed the following:
 - He had feelings for [REDACTED], that he was attracted to [REDACTED], and that his attraction to [REDACTED] was romantic.
 - He watched [REDACTED] on the PSPRS video cameras because of his attraction to [REDACTED].
 - He regularly watched [REDACTED] (without [REDACTED] knowledge) on PSPRS's video surveillance cameras for at least a few months but maybe longer.
 - He acknowledges that his conduct was neither appropriate nor acceptable and that he looked back at his behavior with remorse and regret.
 - If he were on the PSPRS Board, he would have wanted to know about his video surveillance viewing when he was being considered for the Administrator position.
 - He acknowledged that the Board might not have approved his appointment to Administrator if Board members had learned of his earlier conduct related to watching videos of a [REDACTED] employee toward whom he was romantically attracted.

Conclusion and Recommendations

As a state officer/employee, the Administrator is subject to the Standards of Conduct requirements outlined in State Personnel System Rules. As the chief executive officer for PSPRS, the Administrator has many duties, including, without limitation, recruiting, hiring, and managing PSPRS employees; investing contributions; establishing and maintaining accounts and records for PSPRS; and performing duties delegated by the Board. A.R.S. § 38-848(N). The Administrator serves as the public face of PSPRS and is expected to set an example for the entire organization.

Mr. Smout clearly engaged in improper and inappropriate behavior and failed to meet the expectations and requirements of his job as the Administrator of PSPRS. The conduct to which Mr. Smout has himself

Mr. William T. Buividas, Chairman
July 15, 2019
Page 4

admitted does not even remotely comply with the values of PSPRS and has brought embarrassment and discredit to the State.

For all the foregoing reasons, ADOA recommends that immediate action be taken to terminate Mr. Smout as Administrator for PSPRS, and that Mr. Smout not be employed in any other capacity with the State of Arizona.

In addition to our recommendations, we are aware that PSPRS has already hired a new Human Resources Manager and ADOA Human Resources has provided training to this individual. It is also our understanding that PSPRS will be providing additional training to all PSPRS staff; however, ADOA recommends that any such training be reviewed by ADOA and the Attorney General's Office. ADOA further recommends that PSPRS conduct a full review of its human resources policies and procedures to ensure PSPRS staff is properly trained on appropriate conduct in the workplace and the Standards of Conduct requirements in State Personnel System Rules.

If you would like to discuss any of the information provided in this letter, or if you are in need of ADOA's assistance with this matter, please do not hesitate to contact me.

Sincerely,

Elizabeth Thorson
Deputy Director



518 East Willetta Street
Phoenix, Arizona 85004
Direct: (480) 512-9202

THE FOSTER GROUP
ATTORNEYS AT LAW

Troy P. Foster
tfoster@thefosterlaw.com

VIA PRESCRIBED SERVICE and STIPULATED WAIVER BY COUNSEL

August 13, 2019

William Buividas, Chairman
Mike Scheidt, Vice Chairman
Harry A. Papp, Trustee
Dean M. Scheinert, Trustee
Donald A. Smith, Jr., Trustee
Jim Ameduri, Trustee
Scott McCarty, Trustee
Brian Moore, Trustee
Christopher J. Hemmen, Trustee
Arizona Public Safety Personnel Retirement System
Board of Trustees
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Bret Parke
Acting Administrator
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Mark Steed
Chief Investment Officer
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Jared Smout, Former Administrator
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Jim Hacking, Former Administrator
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Mark Brnovich, Arizona Attorney General
Counsel for the Board (pursuant to A.R.S. § 38-848(R))
2005 E. Central Avenue
Phoenix, Arizona 85004

RE: Claimant Chrystal Angotti; *Notice of Claim Pursuant to A.R.S. § 12-821.01*
Against the State of Arizona, the Public Safety Personnel Retirement System, and
Individuals Former Administrator Jared Smout, Former Administrator Jim Hacking, IT
Manager Sam Meier, Acting Interim Administrator Bret Parke, and CIO Mark Steed

Dear Sirs:

This Firm represents Chrystal Angotti and this letter serves as her Notice of Claim (“Notice”) against the Arizona Public Safety Personnel Retirement System (“PSPRS” or State) pursuant to A.R.S. § 12-821.01. The Notice is also provided to the individuals named. As outlined in detail below, the individuals engaged in conduct both within and outside of the course and scope of their employment with the State of Arizona. As such, both the State and the individuals are liable for the acts in these respective roles. As this Notice is provided without the benefit of formal discovery, Ms. Angotti reserves the right to amend and supplement, as necessary and appropriate. If for any reason you believe that this Notice is not in compliance with State law, or if you need any additional facts or information to better assess the claim, please contact me directly.¹

FACTUAL BASIS FOR CLAIM

The “Executive” Summary.

The facts underlying Ms. Angotti’s claim involve salacious details of misogyny, government corruption and extreme abuses of power, bribes and cover-ups, surreptitious

¹ The State, through the Department of Administration, hired outside counsel to conduct an investigation into the allegations discussed in this Notice. Though we attach a copy of the redacted and publicly-released version of the investigatory report, see July 15, 2019 Summary, Exhibit 1, we incorporate by reference the entire factual investigation, including all interviews, unredacted reports and exhibits, as well as the PSPRS actions with respect to Mr. Smout. As Ms. Angotti is the primary victim, the State conducted the investigation, and Mr. Smout admitted to the allegations, this Notice does not attempt to, nor does the law require us to, provide a full recitation of the factual bases.

surveillance of employees, malfeasance in oversight, violent threats, and much more. Unfortunately for her, Ms. Angotti was at the center of it all; she was victimized, sexually harassed, groped, rubbed, threatened, spied upon, sexually objectified, touched and demeaned each and every day for over a year. And this happened to her at work, while she served the State and its taxpayers. At the hands of the Administrator of the PSPRS and his staff, and only after this same Administrator was promoted into this powerful role after he had engaged in similar misconduct years earlier.

Nothing is Private: Absolutely Nothing.

Ms. Angotti became then-Administrator Jared Smout's Executive Assistant on January 16, 2018. Within weeks of her employment, Ms. Angotti and another Department employee believed that the Information Technology personnel were monitoring their personal cell phones, including banking and other sensitive data. In February and March of 2018, Ms. Angotti raised this concern with Mr. Smout and State Human Resources officials. Subsequently, the City of Phoenix Police Department heard Ms. Angotti's concern and concluded that there was reason to believe that such surveillance was occurring. In response, Mr. Smout promised to take action in engaging a forensic expert to handle the situation.

However, as the State's report confirms, Mr. Smout did nothing. He did nothing because, as Mr. Smout himself admits, he directed, approved, and endorsed the surveillance of Ms. Angotti. And as she experienced, Mr. Smout continued, in concert with IT Manager Sam Meier, to monitor and surveil her personal calls, messages, banking information, purchases, and other sensitive items on Ms. Angotti's personal cell phone.²

For several months, Ms. Angotti believed that Mr. Smout was going to put a stop to the surveillance. Though his behavior soon led her to question that, she did not know that Mr. Smout was spearheading the surveillance until reading the State's July 15th report. Neither did she know that, in 2014, Mr. Smout had been investigated for and admitted to surveilling other female employees that he had "romantic" feelings for.³

² In fact, Mr. Smout only taunted Ms. Angotti, telling her things like she should "close her legs" because his IT team might have cameras under her desk. He told her on many occasions that he would not be surprised if hidden cameras were in her office. In retrospect, now knowing Mr. Smout's history of electronically monitoring employees and that he was directing surveillance of her, his comments are eerie.

³ Mr. Smout, his predecessor (Jim Hacking), and other unnamed individuals proactively withheld and covered up the 2014 events. Further, the Board of Trustees failed to engage in any due diligence to determine whether Mr. Smout had any prior performance issues or history. That failure led to Mr. Smout's *promotion* to Administrator – a position that gave him more access, authority, and power which he promptly abused, as outlined by the State's report.

Mr. Smout's Acts of Workplace "Romance"

Ms. Angotti soon became the target of Mr. Smout's attention. He informed the State's investigators that he had "romantic" feelings for our client, and he utilized the powerful role that he occupied to stalk, harass, threaten and intimidate Ms. Angotti. This, by his own admission and in the name of "romance."

As its investigators spent over six hours with Ms. Angotti, many more hours on the phone with her for follow-up questions, and over three months delving into Mr. Smout's misconduct, the State's own report chronicles his misuse of power and predatory behavior. Though that report is incorporated by reference, we provide general categories and some specific examples of what Ms. Angotti endured, almost daily, from January 2018 through April 2019:

- Mr. Smout groped, grabbed, rubbed, and otherwise touched her. On several occasions, these touchings included direct contact with Ms. Angotti's breasts, back, and thighs, and were accompanied with inappropriate and sexually-charged comments. This happened during the course of the performance of their respective duties.
- Mr. Smout trapped, pinned, and physically prevented Ms. Angotti from leaving either his office or hers, which was private and directly attached to his. Both when necessary for work-related issues and when wholly unnecessary, Mr. Smout closed the office doors and engaged in sexually-harassing conduct. As a result, the fear of what would happen was palpable and constant.⁴
- Mr. Smout commented to her and others about Ms. Angotti's body; he made sexually-charged comments about her – both in private and around others. This also occurred spontaneously while the two were performing the functions of their jobs.
- Mr. Smout constantly leered at Ms. Angotti's body – even after she engaged in several deliberate and detailed attempts to prevent it.
- From his office each morning, Mr. Smout watched Ms. Angotti park and walk into the building. He stood at his window looking down at her. This bizarre behavior was extremely uncomfortable and frightening.

⁴ For several months, Mr. Smout would require Ms. Angotti to be in his office alone with him and the door shut for hours at a time. The meetings would veer from appropriate, State-related business conversations to wholly inappropriate comments and oppressive misogyny; Ms. Angotti would attempt to change the subject, Mr. Smout would become frustrated and angry, but would engage in work-related discussions. And then, he would go off the rails into more inappropriate behavior. This cycle repeated for hours on most days.

- Mr. Smout sent inappropriate, sexually-charged text messages to her.

Like many victims, Ms. Angotti changed what she wore, changed how she stood, changed how she sat, changed how she spoke, and otherwise changed her appearance – all in attempts to prevent *Mr. Smout's misconduct*. But, to no avail.

“I Was a Man.” Actually, a Married Man

As you know, these are not mere allegations. Mr. Smout admitted to this and more. In fact, when investigators asked why he engaged in this pattern of misconduct, Mr. Smout responded that he “was a man.” This, as if to suggest that his misconduct were justified or he was not responsible. These words, along with his conduct, are predatory. Plain and simple.

And in true form, when he worried that Ms. Angotti might report him, Mr. Smout threatened her safety and employment.⁵ Both the general environment and Mr. Smout's misuse of power made his threats credible.

After the abuse and threats, Mr. Smout would shower Ms. Angotti with gifts and apologies. This was not, by any measure, a secret:

- He sent Ms. Angotti flowers regularly to apologize for his harassing behavior; this became so regular and Ms. Angotti became so uncomfortable that she gave the flowers away to others in the office.
- Mr. Smout would place hidden love notes to her throughout the office. The notes, themselves, which the State has, were extremely inappropriate, unprofessional, and pervasive.
- When unattended, Mr. Smout would get into Ms. Angotti's pocketbook and put money in there after his misconduct.
- Mr. Smout gave Ms. Angotti a \$500 gift certificate and told her to take the day off as an apology for a particular “bad” incident.

And there were many more gifts and apologies. Sickened by this pattern – on many levels – Ms. Angotti did not use these gifts, retaining them as received. She received a litany of mea culpas because Mr. Smout “was a man.” An extremely sorry one evidenced by the accumulated apologies.

⁵ Having been a public servant for almost 20 years – her entire professional life – Ms. Angotti feared that the retirement that she had worked so hard to receive would be jeopardized by this powerful public assailant.

A House Named “Crystal”

There is so much more. To highlight the extremes that Ms. Angotti suffered, we provide one disturbing example. When he was getting ready to purchase a new home for him and his family, Mr. Smout told Ms. Angotti that this house was going to be very special to him. Because the house address bore Ms. Angotti’s first name.

He told her that his wife, however, was not pleased with his infatuation with the new house – but that since he was “the man” she would deal with it.

Not His First Time Around the Block

Ms. Angotti was not the first to be victimized by Mr. Smout. But it could have been avoided altogether.

In 2014, Mr. Smout was accused of engaging in similar misconduct with another subordinate. This was prior to his elevation to the Administrator position. It included stalking, touching, groping, monitoring, threatening, intimidating, misusing power, sexual harassment, etc. At the time, Mr. Smout again admitted to the misconduct. His then-boss, former Administrator Jim Hacking, failed to take any action. Rather, Mr. Smout was given raise after raise, bonus after bonus, and promotion after promotion. Until he became the CEO of the Agency, wielding the most power.

It was no secret that Mr. Smout should never have been in a position of supervision, or even employed with the State, after his 2014 misconduct. Mr. Smout’s boss knew, others within the Agency knew, and upon information and belief, the State’s Human Resources representatives knew at the time. And, in its oversight capacity, the Board knew or should have known. If it did not in 2014, any amount of due diligence would have led to the discovery of this misconduct before Mr. Smout’s elevation to Interim Administrator and then Administrator.

The State gave Mr. Smout the power to do what he did.⁶

Her Rocky Return

Adding insult to injury, Ms. Angotti was retaliated against after cooperating with the investigation into Mr. Smout’s misconduct. From her observation, Mr. Smout had created a culture where employees – even those in high-level positions – were protective of Mr. Smout

⁶ We understand that Mr. Smout’s former boss likely assisted in “covering up” the previous misconduct. And we understand that Mr. Smout actively concealed his prior misconduct before his appointment. We also understand that the HR representative, at the time, may have been inexperienced. However, all of these State employees were agents; and for its part, the State cannot escape accountability for Ms. Angotti’s egregious victimization.

because he provided them with unwarranted bonuses and raises. Even a cursory review of the salary scales and adjustments during his tenure gives credence to her theory.

Regardless, the workplace was still not safe even after Mr. Smout was placed on leave. The following all occurred from March 2019 until Ms. Angotti had to go on leave due to her physical manifestations resulting from the stress, harassment, retaliation, and demands for an explanation as to why she had reported Mr. Smout.⁷

Ms. Angotti remains on her leave of absence, due to documented physical manifestations and emotional distress due to the trauma that she suffered under Mr. Smout. And the environment where she was victimized and the people around her, in addition to specific and negative interactions that she had with employees before her leave, continue to make it an intolerable work environment.⁸

Resulting Damage

In short, and because of this misconduct, Ms. Angotti has suffered, and will continue to suffer. By way of example:

- Ms. Angotti became physically ill when Mr. Smout engaged in this behavior, in anticipation of it, and that continues to this day.
- In addition to gastrointestinal issues, Ms. Angotti suffered severe and painful shingles and neuropathy.
- Due to stress, anxiety, depression, and Post Traumatic Stress Disorder, Ms. Angotti has been prescribed various medications – for the first time in her life.
- Ms. Angotti has lost a significant amount of weight and that is exacerbating her other physical issues.
- Ms. Angotti's treatment necessitates a therapist and psychiatrist for the foreseeable future.

⁷ As the State is aware, Ms. Angotti did not report Mr. Smout. Someone else did and she cooperated with the State's investigation.

⁸ In conversations before filing this Notice, the State's counsel has agreed that a detailed delineation of facts in this Notice is unnecessary for purposes of A.R.S. 12-841.01. As such, the State will not dispute the sufficiency of this Notice or proper service of it in any forum. Of course, this does not prohibit either party from asserting any substantive claims or defenses, or facts to support them, if the matter is not settled at the Notice stage. None, however, will include any deficiency in this Notice.

- Ms. Angotti suffered severe emotional distress and hurdles with her existing relationships.
- Ms. Angotti suffers from sleep deprivation and insomnia as a result.

Ms. Angotti, a civil servant for almost 20 years, had planned on retiring as a government employee in the next 10-15 years. Now, however, she may never be able to work again. She certainly cannot return to an environment where this happened and the retaliation for her cooperation constructively removed her. As such, Ms. Angotti has suffered, and will continue to suffer, lost wages, and the detrimental impact that has on her retirement and the pain and suffering it has caused her.

She should be compensated for all of these damages by the State and individual State employees. Moreover, if not resolved, Ms. Angotti will seek punitive damages against the individuals for their outrageous, oppressive, and misogynistic conduct. Any one of these individuals could have prevented this unlawful conduct altogether. Instead, each of them covered up past misdeeds, forgave and ignored current ones, and retaliated against those that challenged Mr. Smout – who, by his own admission and the State’s confirmatory finding, engaged in gross misconduct, violated Ms. Angotti’s well-established civil rights. This pattern, demands punitive damages to send a message that this concerted effort to ignore, evade, and normalize such behavior is not acceptable.

LEGAL BASIS FOR CLAIMS⁹

As noted above, Ms. Angotti claims that the PSPRS and the individuals acting in their official capacities, are liable for the misconduct alleged in the Notice and in the State’s fulsome report. These claims include:

- Intentional Infliction of Emotional Distress

As outlined above, Ms. Angotti was subjected to severe emotional distress that was intentionally, and or recklessly, caused by Mr. Smout’s, Mr. Meier’s, Mr. Hacking’s, and other employees’ outrageous conduct. Ms. Angotti did, in fact, and still suffers from severe emotional distress.

- Violations of the Arizona Civil Rights Act

⁹ Though Notice is not required for federal claims that Ms. Angotti will assert, it will be no surprise that, if not resolved, she will bring claims for violations of her civil rights pursuant to Section 1983 and sexual harassment and retaliation pursuant to Title VII of the Civil Rights Act of 1964, as amended. We make this disclosure with the hope that a global settlement is possible.

Mr. Smout's conduct violates the ACRA and the State is liable for Ms. Angotti's resultant damages.

- Negligent Hiring, Promotion, and Retention

Having engaged in this behavior before while a State employee, Mr. Smout's behavior was reasonably foreseeable. His former boss, then-Administrator Hacking, and other unnamed individuals knew about this misconduct but failed to take action. The Board failed to conduct appropriate due diligence. As such, the State and named individuals acting in their official capacities were negligent in the retention and promotion of Mr. Smout. These actions caused Ms. Angotti to be damaged, which would not have occurred had any of the State officials taken action.

- Retaliation and Constructive Discharge

Ms. Angotti's working conditions – both before and after Mr. Smout's departure – have become so outrageous such that she does not believe that she can return. *See* A.R.S § 23-1502. Whether Mr. Smout's misconduct so tainted the environment (which would be completely understandable) or due to the negative interactions after cooperating with the investigation, Mr. Smout's termination did not cleanse the workplace for Ms. Angotti; it still remains intolerable pursuant to the statute. The State and its officials are responsible for this working condition, and Ms. Angotti has been, and will be damaged, as a result.

AMOUNT OF CLAIM

The State and its actors' conduct, both in their official and individual capacities, constitute clear violations of the State's laws outlined above, as well as the federal laws mentioned. The misconduct is undisputed.

Also undisputed is that Ms. Angotti suffered greatly; and that suffering will continue. She is entitled to backpay, front pay, compensatory damages, general and consequential damages, pain and suffering damages, and punitive damages (as to the individuals) for the facts and the legal bases in this Notice and in documents within the State's possession.

The State can settle Ms. Angotti's claims, both state and federal, for \$7 million dollars.

Very truly yours,

THE FOSTER LAW GROUP

Troy P. Foster

Enclosure: Exhibit 1

cc: Nicole Sornsin, General Counsel, ADOA
(copy via email only)



518 East Willetta Street
Phoenix, Arizona 85004
Direct: (480) 512-9202

THE FOSTER GROUP Troy P. Foster
ATTORNEYS AT LAW

tfoster@thefosterlaw.com

VIA PRESCRIBED SERVICE

July 26, 2019

William Buividas, Chairman
Mike Scheidt, Vice Chairman
Harry A. Papp, Trustee
Dean M. Scheinert, Trustee
Donald A. Smith, Jr., Trustee
Jim Ameduri, Trustee
Scott McCarty, Trustee
Brian Moore, Trustee
Christopher J. Hemmen, Trustee
Arizona Public Safety Personnel Retirement System
Board of Trustees
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Bret Parke
Acting Administrator
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Mark Steed
Chief Investment Officer
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Jared Smout, Former Administrator
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

ATTORNEY GENERAL'S OFFICE

DATE RECEIVED July 26, 2019
TIME RECEIVED 2:45 / #8310
RECEIVED FROM Proc. Spdr
Ruben Hemea
SIGNED J. Foster
w/accepting only slip
for State of AZ.

Jim Hacking, Former Administrator
Arizona Public Safety Personnel Retirement System
3010 E. Camelback Road, Ste 200
Phoenix, Arizona 85016

Mark Brnovich, Arizona Attorney General
Counsel for the Board (pursuant to A.R.S. § 38-848(R))
2005 E. Central Avenue
Phoenix, Arizona 85004

**RE: Claimant Chrystal Angotti; Notice of Claim Pursuant to A.R.S. § 12-821.01
Against the State of Arizona, the Public Safety Personnel Retirement System, and
Individuals Former Administrator Jared Smout, Former Administrator Jim Hacking, IT
Manager Sam Meier, Acting Interim Administrator Bret Parke, and CIO Mark Steed**

Dear Sirs:

This Firm represents Chrystal Angotti and this letter serves as her Notice of Claim (“Notice”) against the Arizona Public Safety Personnel Retirement System (“PSPRS” or State) pursuant to A.R.S. § 12-821.01. The Notice is also provided to the individuals named. As outlined in detail below, the individuals engaged in conduct both within and outside of the course and scope of their employment with the State of Arizona. As such, both the State and the individuals are liable for the acts in these respective roles. As this Notice is provided without the benefit of formal discovery, Ms. Angotti reserves the right to amend and supplement, as necessary and appropriate. If for any reason you believe that this Notice is not in compliance with State law, or if you need any additional facts or information to better assess the claim, please contact me directly.¹

FACTUAL BASIS FOR CLAIM

The “Executive” Summary

The facts underlying Ms. Angotti’s claim involve salacious details of misogyny, government corruption and extreme abuses of power, bribes and cover-ups, surreptitious surveillance of employees, malfeasance in oversight, violent threats, and much more.

¹ The State, through the Department of Administration, hired outside counsel to conduct an investigation into the allegations discussed in this Notice. Though we attach a copy of the redacted and publicly-released version of the investigatory report, *see* July 15, 2019 Summary, Exhibit 1, we incorporate by reference the entire factual investigation, including all interviews, unredacted reports and exhibits, as well as the PSPRS actions with respect to Mr. Smout. As Ms. Angotti is the primary victim, the State conducted the investigation, and Mr. Smout admitted to the allegations, this Notice does not attempt to, nor does the law require us to, provide a full recitation of the factual bases.

Unfortunately for her, Ms. Angotti was at the center of it all; she was victimized, sexually harassed, groped, rubbed, threatened, spied upon, sexually objectified, touched and demeaned each and every day for over a year. And this happened to her at work, while she served the State and its taxpayers. At the hands of the Administrator of the PSPRS and his staff, and only after this same Administrator was promoted into this powerful role after he had engaged in similar misconduct years earlier.

Nothing is Private: Absolutely Nothing

Ms. Angotti became then-Administrator Jared Smout's Executive Assistant on January 16, 2018. Within weeks of her employment, Ms. Angotti and another Department employee believed that the Information Technology personnel were monitoring their personal cell phones, including banking and other sensitive data. In February and March of 2018, Ms. Angotti raised this concern with Mr. Smout and State Human Resources officials. Subsequently, the City of Phoenix Police Department heard Ms. Angotti's concern and concluded that there was reason to believe that such surveillance was occurring. In response, Mr. Smout promised to take action in engaging a forensic expert to handle the situation.

However, as the State's report confirms, Mr. Smout did nothing. He did nothing because, as Mr. Smout himself admits, he directed, approved, and endorsed the surveillance of Ms. Angotti. And as she experienced, Mr. Smout continued, in concert with IT Manager Sam Meier, to monitor and surveil her personal calls, messages, banking information, purchases, and other sensitive items on Ms. Angotti's personal cell phone.²

For several months, Ms. Angotti believed that Mr. Smout was going to put a stop to the surveillance. Though his behavior soon led her to question that, she did not know that Mr. Smout was spearheading the surveillance until reading the State's July 15th report. Neither did she know that, in 2014, Mr. Smout had been investigated for and admitted to surveilling other female employees that he had "romantic" feelings for.³

² In fact, Mr. Smout only taunted Ms. Angotti, telling her things like she should "close her legs" because his IT team might have cameras under her desk. He told her on many occasions that he would not be surprised if hidden cameras were in her office. In retrospect, now knowing Mr. Smout's history of electronically monitoring employees and that he was directing surveillance of her, his comments are eerie.

³ Mr. Smout, his predecessor (Jim Hacking), and other unnamed individuals proactively withheld and covered up the 2014 events. Further, the Board of Trustees failed to engage in any due diligence to determine whether Mr. Smout had any prior performance issues or history. That failure led to Mr. Smout's *promotion* to Administrator – a position that gave him more access, authority, and power which he promptly abused, as outlined by the State's report.

Mr. Smout's Acts of Workplace "Romance"

Ms. Angotti soon became the target of Mr. Smout's attention. He informed the State's investigators that he had "romantic" feelings for our client, and he utilized the powerful role that he occupied to stalk, harass, threaten and intimidate Ms. Angotti. This, by his own admission and in the name of "romance."

As its investigators spent over six hours with Ms. Angotti, many more hours on the phone with her for follow-up questions, and over three months delving into Mr. Smout's misconduct, the State's own report chronicles his misuse of power and predatory behavior. Though that report is incorporated by reference, we provide general categories and some specific examples of what Ms. Angotti endured, almost daily, from January 2018 through April 2019:

- Mr. Smout groped, grabbed, rubbed, and otherwise touched her. On several occasions, these touchings included direct contact with Ms. Angotti's breasts, back, and thighs, and were accompanied with inappropriate and sexually charged comments. This happened during the course of the performance of their respective duties.
- Mr. Smout trapped, pinned, and physically prevented Ms. Angotti from leaving either his office or hers, which was private and directly attached to his. Both when necessary for work-related issues and when wholly unnecessary, Mr. Smout closed the office doors and engaged in sexually harassing conduct. As a result, the fear of what would happen was palpable and constant.⁴
- Mr. Smout commented to her and others about Ms. Angotti's body; he made sexually charged comments about her – both in private and around others. This also occurred spontaneously while the two were performing the functions of their jobs.
- Mr. Smout constantly leered at Ms. Angotti's body – even after she engaged in several deliberate and detailed attempts to prevent it.
- From his office each morning, Mr. Smout watched Ms. Angotti park and walk into the building. He stood at his window looking down at her. This bizarre behavior was extremely uncomfortable and frightening.
- Mr. Smout sent inappropriate, sexually-charged text messages to her.

⁴ For several months, Mr. Smout would require Ms. Angotti to be in his office alone with him and the door shut for hours at a time. The meetings would veer from appropriate, State related business conversations to wholly inappropriate comments and oppressive misogyny; Ms. Angotti would attempt to change the subject, Mr. Smout would become frustrated and angry, but would engage in work-related discussions. And then, he would go off the rails into more inappropriate behavior. This cycle repeated for hours on most days.

Like many victims, Ms. Angotti changed what she wore, changed how she stood, changed how she sat, changed how she spoke, and otherwise changed her appearance – all in attempts to prevent *Mr. Smout's misconduct*. But, to no avail.

"I Was a Man." Actually, a Married Man

As you know, these are not mere allegations. Mr. Smout admitted to this and more. In fact, when investigators asked why he engaged in this pattern of misconduct, Mr. Smout responded that he "was a man." This, as if to suggest that his misconduct was justified, or he was not responsible. These words, along with his conduct, are predatory. Plain and simple.

And in true form, when he worried that Ms. Angotti might report him, Mr. Smout threatened her safety and employment.⁵ Both the general environment and Mr. Smout's misuse of power made his threats credible.

After the abuse and threats, Mr. Smout would shower Ms. Angotti with gifts and apologies. This was not, by any measure, a secret:

- He sent Ms. Angotti flowers regularly to apologize for his harassing behavior; this became so regular and Ms. Angotti became so uncomfortable that she gave the flowers away to others in the office.
- Mr. Smout would place hidden love notes to her throughout the office. The notes, themselves, which the State has, were extremely inappropriate, unprofessional, and pervasive.
- When unattended, Mr. Smout would get into Ms. Angotti's pocketbook and put money in there after his misconduct.
- Mr. Smout gave Ms. Angotti a \$500 gift certificate and told her to take the day off as an apology for a particular "bad" incident.

And there were many more gifts and apologies. Sickened by this pattern – on many levels – Ms. Angotti did not use these gifts, retaining them as received. She received a litany of mea culpas because Mr. Smout "was a man." An extremely sorry one evidenced by the accumulated apologies.

A House Named "Crystal"

⁵ Having been a public servant for almost 20 years – her entire professional life – Ms. Angotti feared that the retirement that she had worked so hard to receive would be jeopardized by this powerful public assailant.

There is so much more. To highlight the extremes that Ms. Angotti suffered, we provide one disturbing example. When he was getting ready to purchase a new home for him and his family, Mr. Smout told Ms. Angotti that this house was going to be very special to him. Because the house address bore Ms. Angotti's first name.

He told her that his wife, however, was not pleased with his infatuation with the new house – but that since he was “the man” she would deal with it.

Not His First Time Around the Block

Ms. Angotti was not the first to be victimized by Mr. Smout. But it could have been avoided altogether.

In 2014, Mr. Smout was accused of engaging in similar misconduct with another subordinate. This was prior to his elevation to the Administrator position. It included stalking, touching, groping, monitoring, threatening, intimidating, misusing power, sexual harassment, etc. At the time, Mr. Smout again admitted to the misconduct. His then-boss, former Administrator Jim Hacking, failed to take any action. Rather, Mr. Smout was given raise after raise, bonus after bonus, and promotion after promotion. Until he became the CEO of the Agency, wielding the most power.

It was no secret that Mr. Smout should never have been in a position of supervision, or even employed with the State, after his 2014 misconduct. Mr. Smout's boss knew, others within the Agency knew, and upon information and belief, the State's Human Resources representatives knew at the time. And, in its oversight capacity, the Board knew or should have known. If it did not in 2014, any amount of due diligence would have led to the discovery of this misconduct before Mr. Smout's elevation to Interim Administrator and then Administrator.

The State gave Mr. Smout the power to do what he did.⁶

“Get Off My Team”

Adding insult to injury, Ms. Angotti was retaliated against after cooperating with the investigation into Mr. Smout's misconduct. From her observation, Mr. Smout had created a culture where employees – even those in high-level positions – were protective of Mr. Smout because he provided them with unwarranted bonuses and raises. Even a cursory review of the salary scales and adjustments during his tenure gives credence to her theory.

⁶ We understand that Mr. Smout's former boss likely assisted in “covering up” the previous misconduct. And we understand that Mr. Smout actively concealed his prior misconduct before his appointment. We also understand that the HR representative, at the time, may have been inexperienced. However, all of these State employees were agents; and for its part, the State cannot escape accountability for Ms. Angotti's egregious victimization.

Regardless, the workplace was still not safe even after Mr. Smout was placed on leave. The following all occurred from March 2019 until Ms. Angotti had to go on leave due to her physical manifestations resulting from the stress, harassment, and retaliation. We provide a couple of examples below:

- When Ms. Angotti walked down the hall, employees and managers called her a “bitch” and other pejoratives.
- Employees and managers asked Ms. Angotti what *her* problem was and why she had to report Mr. Smout.⁷
- When Ms. Angotti shut the door between her office and what was Mr. Smout’s office (so that she did not have to look into it), now Acting Administrator Bret Parke, who was close with Mr. Smout, expressed disdain: “If you’re going to keep being a little pussy about this [see above], I don’t want you on my team. I don’t have time for weak people.”
- On April 24, 2019, Mark Steed (the Chief Investment Officer), who was also close to Mr. Smout, entered Ms. Angotti’s office and demanded that she tell him what was going on and why she was saying “bad things” about Mr. Smout in the investigation. Ms. Angotti told him that she was instructed not to talk about it. Mr. Steed responded accusatorily: “I think you’re lying or this is a political stunt.” Mr. Steed remained in her office for almost two hours trying to get information from her and shame her for participating in the State’s investigation. Ms. Angotti shared nothing, but reported the incident to Acting Administrator Parke. Mr. Parke told her that he did not want to hear about it or deal with it.⁸
- When Ms. Angotti raised issues about potential violations of the Open Meeting Laws, she was told to “never mind” and excluded from future meetings.

⁷ As the State is aware, Ms. Angotti did not report Mr. Smout. Someone else did and she cooperated with the State’s investigation.

⁸ On that same day (Administrative Professionals’ Day), Mr. Steed got all of the Executive Assistants and support staff flowers to show appreciation for their work. All but Ms. Angotti. Obviously referring to her statements to the investigators, Mr. Steed publicly told Ms. Angotti: “I didn’t get you any flowers because I didn’t want you to report me to the DOA.” This is but one example of the continued demeaning, oppressive, and retaliatory behavior that Ms. Angotti (and doubtlessly others) was subjected to after her cooperation in this investigation.

Resulting Damage

In short, and because of this misconduct, Ms. Angotti has suffered, and will continue to suffer. By way of example:

- Ms. Angotti became physically ill when Mr. Smout engaged in this behavior, in anticipation of it, and that continues to this day.
- In addition to gastrointestinal issues, Ms. Angotti suffered severe and painful shingles and neuropathy.
- Due to stress, anxiety, depression, and Post Traumatic Stress Disorder, Ms. Angotti has been prescribed various medications – for the first time in her life.
- Ms. Angotti has lost a significant amount of weight and that is exacerbating her other physical issues.
- Ms. Angotti's treatment necessitates a therapist and psychiatrist for the foreseeable future.
- Ms. Angotti suffered severe emotional distress and hurdles with her existing relationships.
- Ms. Angotti suffers from sleep deprivation and insomnia as a result.

Ms. Angotti, a civil servant for almost 20 years, had planned on retiring as a government employee in the next 10-15 years. Now, however, she may never be able to work again. She certainly cannot return to an environment where this happened and the retaliation for her cooperation constructively removed her. As such, Ms. Angotti has suffered, and will continue to suffer, lost wages, and the detrimental impact that has on her retirement and the pain and suffering it has caused her.

She should be compensated for all of these damages by the State and individual State employees. Moreover, if not resolved, Ms. Angotti will seek punitive damages against the individuals for their outrageous, oppressive, and misogynistic conduct. Any one of these individuals could have prevented this unlawful conduct altogether. Instead, each of them covered up past misdeeds, forgave and ignored current ones, and continue to retaliate against those that challenge Mr. Smout – who, by his own admission and the State's confirmatory finding, engaged in gross misconduct, violated Ms. Angotti's well-established civil rights. This pattern, which continued after Mr. Smout was placed on leave, demands punitive damages to

send a message that this concerted effort to ignore, evade, and normalize such behavior is not acceptable.

LEGAL BASIS FOR CLAIMS⁹

As noted above, Ms. Angotti claims that the PSPRS and the individuals acting in their official capacities, are liable for the misconduct alleged in the Notice and in the State's fulsome report. These claims include:

- Intentional Infliction of Emotional Distress

As outlined above, Ms. Angotti was subjected to severe emotional distress that was intentionally, and or recklessly, caused by Mr. Smout's, Mr. Meier's, Mr. Hacking's, Mr. Parke's, and Mr. Steed's outrageous conduct. Ms. Angotti did, in fact, and still suffers from severe emotional distress.

- Violations of the Arizona Civil Rights Act

Mr. Smout's conduct violates the ACRA and the State is liable for Ms. Angotti's resultant damages.

- Negligent Hiring, Promotion, and Retention

Having engaged in this behavior before while a State employee, Mr. Smout's behavior was reasonably foreseeable. His former boss, then-Administrator Hacking, and other unnamed individuals knew about this misconduct but failed to take action. The Board failed to conduct appropriate due diligence. As such, the State and named individuals acting in their official capacities were negligent in the retention and promotion of Mr. Smout. These actions caused Ms. Angotti to be damaged, which would not have occurred had any of the State officials taken action.

- Retaliation and Constructive Discharge

Ms. Angotti's working conditions – both before and after Mr. Smout's departure – have become so outrageous such that she does not believe that she can return. *See* A.R.S § 23-1502. Mr. Parke's and Mr. Steed's retaliatory actions are relevant to all of the claims above, and are separate violations of ACRA, Title VII, Section 1983, and the negligent retention/promotion claims. The State and its officials are responsible for this working condition, and Ms. Angotti has been, and will be damaged, as a result.

⁹ Though Notice is not required for federal claims that Ms. Angotti will assert, it will be no surprise that, if not resolved, she will bring claims for violations of her civil rights pursuant to Section 1983 and sexual harassment and retaliation pursuant to Title VII of the Civil Rights Act of 1964, as amended. We make this disclosure with the hope that a global settlement is possible.

AMOUNT OF CLAIM

The State and its actors' conduct, both in their official and individual capacities, constitute clear violations of the State's laws outlined above, as well as the federal laws mentioned. The misconduct is undisputed.

Also undisputed is that Ms. Angotti suffered greatly; and that suffering will continue. She is entitled to backpay, front pay, compensatory damages, general and consequential damages, pain and suffering damages, and punitive damages (as to the individuals) for the facts and the legal bases in this Notice and in documents within the State's possession.

Ms. Angotti's claims, both state and federal, can be settled for \$7 million dollars as to all parties.

Very truly yours,

THE FOSTER LAW GROUP

A handwritten signature in black ink, appearing to read 'Troy P. Foster', with a stylized, elongated horizontal stroke.

Troy P. Foster

Enclosure: Exhibit 1

cc: Nicole Sornsin, General Counsel, ADOA
(copy via email only)

Notice of Claim

Copy of claim sent to:

Agency PSPRS Section LMS

Date Rec'd

by AGO: JUL 26 2019

Date: 7/30/19 initials: AG

Claim received with attachments? *Yes ☒ No ☐
(If yes, AGO retained a copy)

EXHIBIT 1

Douglas A. Ducey
Governor



Andy Tobin
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

100 NORTH FIFTEENTH AVENUE • SUITE 403
PHOENIX, ARIZONA 85007

(602) 542-1500

July 15, 2019

Mr. William T. Buividas
Chairman, Board of Trustees
Public Safety Personnel Retirement System (PSPRS)
3010 E. Camelback Road, Suite 200
Phoenix, AZ 85016

Dear Mr. Buividas:

The information contained in this letter is being provided to you in your official capacity as Chairman of the PSPRS Board. As you review the information below, please be reminded that State Rules and policy prohibit retaliation in any form against anyone for raising a concern about, assisting in an investigation of, or filing a complaint in good faith.

As you may recall, the Arizona Department of Administration (ADOA) previously notified you in March that we had received an email from [REDACTED] that contained serious allegations regarding PSPRS ([REDACTED] email). Due to the seriousness and sensitivity of the allegations, ADOA determined that outside counsel would be conducting the investigation. During the investigation, PSPRS Administrator Jared Smout was placed on administrative leave and remains in that status. The investigation is now complete, and the findings are provided in this letter.

Scope and Background

The [REDACTED] email contained several allegations, some of which had already been addressed by PSPRS. Thus, this investigation focused primarily on the allegation that Mr. Smout was in an [REDACTED]. Shortly after the investigation was initiated, on April 2, 2019, ADOA received anonymously a second email. The anonymous second email alleged additional improper behavior by Mr. Smout towards [REDACTED], and specifically mentioned an [REDACTED], outlining a specific interaction between Mr. Smout and [REDACTED].

The investigators reviewed all information supplied by the authors of the two emails and by PSPRS. In-person or telephonic interviews were conducted with eight current or former PSPRS staff, which included interviews with the author of the [REDACTED] email, as well as Mr. Smout. The investigators also interviewed a Sergeant with the Phoenix Police Department because there was reason to believe the Sergeant may have information relevant to the subject matter of the investigation.

Allegations and Findings

- Allegation of [REDACTED] - The [REDACTED] email alleges that Mr. Smout has an [REDACTED] with [REDACTED]. During [REDACTED] interview, [REDACTED] alleged [REDACTED] has been subjected to inappropriate behavior by Mr. Smout for about a year, which included him looking at [REDACTED] inappropriately, making inappropriate comments about [REDACTED] body, engaging in inappropriate physical contact and leaving [REDACTED] in and on desk. Mr. Smout admitted to and confirmed the following:
 - He is attracted to [REDACTED] and that, in light of his attraction, [REDACTED] should not be [REDACTED].
 - He has sent inappropriate text messages to [REDACTED], and often included emojis [REDACTED] those texts, and acknowledged sending such emojis to [REDACTED] was inappropriate.
 - He has often hugged [REDACTED] and that he may have run his hands up and down [REDACTED] back when they hugged, which he acknowledged may have amplified the improper nature of his conduct.
 - He has given [REDACTED], acknowledged that the [REDACTED] that he gave [REDACTED] were accompanied by [REDACTED] and that it was inappropriate for him to tell [REDACTED] that he [REDACTED].
 - He has given [REDACTED]
 - He has secretly placed [REDACTED] coin purse on at least five occasions, which he stated were for "lunches", and gave [REDACTED].
- [REDACTED] Incident Described in April 2, 2019 Anonymous Email - The author of the anonymous email alleged s/he had [REDACTED] Mr. Smout and [REDACTED]
[REDACTED]
[REDACTED] Mr. Smout admitted to and confirmed the following:
 - The complaint and its description were accurate.
 - He had told [REDACTED] during the exchange and that he was looking at [REDACTED] body and was trying to apologize to [REDACTED] for doing so.
 - He had looked over or stared at [REDACTED] body in an inappropriate manner on multiple other occasions, and attempted to explain his behavior by remarking that he "was a man".
 - [REDACTED] has reacted to his behavior by crossing [REDACTED] arms across [REDACTED] chest.
 - His conduct in this regard was not appropriate, especially because he was the Administrator and [REDACTED]
- Allegations Regarding Electronic Spying or Hacking - The [REDACTED] email alleges that Mr. Smout has asked Information Technology (IT) staff to spy on employees he doesn't like. During employee interviews, [REDACTED] as well as at least one other [REDACTED] staff member expressed concerns that PSPRS IT employees may be spying on them. Mr. Smout admitted to and confirmed the following:
 - In about November 2018, he had a meeting with two [REDACTED] PSPRS employees and PSPRS Human Resources, during which both [REDACTED] employees reported that they believed they were being spied upon by employees in PSPRS's IT office; during the

- meeting, he stated he would contact the forensic investigator whose business card he had received from one of the employees in the meeting.
- In about January 2019, he brought in Phoenix Police Detective Sgt. Daren Wunderle, who met with [REDACTED] and Mr. Smout to discuss concerns about possible spying by PSPRS IT staff.
 - He never actually retained a forensic investigator and acknowledged that Sgt. Wunderle was critical of Mr. Smout during their meeting for not acting promptly to investigate the employees' allegations regarding being spied upon.
 - He considered the employees' allegations of being spied upon to be credible and suspected that IT staff may have spied in some manner on PSPRS employees.
 - If the employees' allegations were correct, PSPRS computer systems, databases and network might be compromised.
 - Agreed it was his responsibility as the Administrator to ensure the safety and security of PSPRS's operations and employees.
 - Despite all concerns, he did not retain a computer forensic expert to conduct an investigation in a timely manner, file a police report, contact the FBI, or even inform the PSPRS Board that two [REDACTED] employees believed that they were being spied upon by IT.
- Mr. Smout's Video Viewing Habits - During the course of the investigation, the investigators were made aware of a thumb drive related to a prior investigation of Mr. Smout; the thumb drive contained a letter from 2014 regarding Mr. Smout's PSPRS video surveillance viewing habits, in particular, between May 19 and June 23, 2014; the summary and spreadsheet indicated that Mr. Smout spent a great deal of time "viewing live video sometimes for hours every day" of [REDACTED] PSPRS employees, of which [REDACTED] was the primary focus. Mr. Smout admitted to and confirmed the following:
 - He had feelings for [REDACTED], that he was attracted to [REDACTED], and that his attraction to [REDACTED] was romantic.
 - He watched [REDACTED] on the PSPRS video cameras because of his attraction to [REDACTED].
 - He regularly watched [REDACTED] (without [REDACTED] knowledge) on PSPRS's video surveillance cameras for at least a few months but maybe longer.
 - He acknowledges that his conduct was neither appropriate nor acceptable and that he looked back at his behavior with remorse and regret.
 - If he were on the PSPRS Board, he would have wanted to know about his video surveillance viewing when he was being considered for the Administrator position.
 - He acknowledged that the Board might not have approved his appointment to Administrator if Board members had learned of his earlier conduct related to watching videos of a [REDACTED] employee toward whom he was romantically attracted.

Conclusion and Recommendations

As a state officer/employee, the Administrator is subject to the Standards of Conduct requirements outlined in State Personnel System Rules. As the chief executive officer for PSPRS, the Administrator has many duties, including, without limitation, recruiting, hiring, and managing PSPRS employees; investing contributions; establishing and maintaining accounts and records for PSPRS; and performing duties delegated by the Board. A.R.S. § 38-848(N). The Administrator serves as the public face of PSPRS and is expected to set an example for the entire organization.

Mr. Smout clearly engaged in improper and inappropriate behavior and failed to meet the expectations and requirements of his job as the Administrator of PSPRS. The conduct to which Mr. Smout has himself

Mr. William T. Buividas, Chairman
July 15, 2019
Page 4

admitted does not even remotely comply with the values of PSPRS and has brought embarrassment and discredit to the State.

For all the foregoing reasons, ADOA recommends that immediate action be taken to terminate Mr. Smout as Administrator for PSPRS, and that Mr. Smout not be employed in any other capacity with the State of Arizona.

In addition to our recommendations, we are aware that PSPRS has already hired a new Human Resources Manager and ADOA Human Resources has provided training to this individual. It is also our understanding that PSPRS will be providing additional training to all PSPRS staff; however, ADOA recommends that any such training be reviewed by ADOA and the Attorney General's Office. ADOA further recommends that PSPRS conduct a full review of its human resources policies and procedures to ensure PSPRS staff is properly trained on appropriate conduct in the workplace and the Standards of Conduct requirements in State Personnel System Rules.

If you would like to discuss any of the information provided in this letter, or if you are in need of ADOA's assistance with this matter, please do not hesitate to contact me.

Sincerely,

Elizabeth Thorson
Deputy Director